

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

2008 SEP -3 AM 9:30

UNITED STATES OF AMERICA,

Plaintiff,

v.

Ruben GARCIA-Marcial,

Defendant

Magistrate Docket No.

08 MJ 2702

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

COMPLAINT FOR VIOLATION OF:

BY WHT DEPUTYTitle 8, U.S.C., Section 1326
Deported Alien Found in the
United States

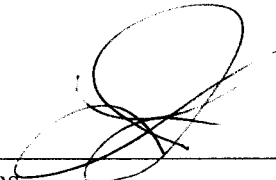
The undersigned complainant, being duly sworn, states:

On or about **September 2, 2008** within the Southern District of California, defendant, **Ruben GARCIA-Marcial**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


 SIGNATURE OF COMPLAINANT

 Ismael A. Canto
 Senior Patrol Agent

 SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 3rd DAY OF SEPTEMBER,
2008

 Leo S. Papas

UNITED STATES MAGISTRATE JUDGE

 JSA
 9/12/08
 WHT

CONTINUATION OF COMPLAINT:
Ruben GARCIA-Marcial

PROBABLE CAUSE STATEMENT

On September 2, 2008 Border Patrol Agents M. Meza and S. Pinones of the Murietta Border Patrol Station were assigned patrol duties along northbound Interstate 15 (I-15) in search of alien smuggling activity. I-15 is a known alien smuggling corridor and is frequently used by smugglers coming from the San Diego, California area as they attempt to further transport aliens into the United States.

At approximately 9:15 A.M. The agents observed a 1990 white Lexus pass their location at the Old Hwy 395 off ramp and I-15. The vehicle was riding low to the ground and the driver and front passenger appeared nervous about the presence of a marked Border Patrol vehicle. Believing their immigration status to be suspect the agents followed the vehicle for further observation.

As the agents followed the car they noticed that the vehicle was swerving within its lane of travel as if the driver was distracted by the agents following her vehicle. As the agents attempted to pull alongside the car it suddenly veered from lane one to lane four then exited the 76 off-ramp. Believing the driver was trying to elude the Border Patrol the agents performed a vehicle stop on the car to inspect its occupants.

The vehicle yielded on Hwy 395 near Fallbrook, California. The agents approached the car on foot and identified themselves as Border Patrol Agents to the occupants and queried them as to their immigration status. The driver claimed to be a lawfully admitted permanent resident from Mexico and produced a valid I-551 card. The passenger, defendant Ruben GARCIA-Marcial admitted to being a citizen and national of Mexico illegally present in the United States. At 9:25 A.M. the defendant was taken into custody and transported to Murietta Border Patrol Station for further investigation.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico on July 3, 2008 through San Ysidro, California.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his rights as per the Miranda Warning. The defendant understood his rights and agreed to be interviewed without representation. The defendant admitted to being a citizen of Mexico illegally present in the United States. The defendant admits to entering the United States illegally and that he had been previously deported and that he has never asked for permission to re-enter the United States.